

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

DAMAN LEE MICHAEL WANDKE,

Plaintiff,

v.

NATIONAL RAILROAD PASSENGER  
CORPORATION,

Defendants.

Case No. C22-396 MLP

ORDER RE: SETTLEMENT  
CONFERENCE WITH UNITED  
STATES MAGISTRATE JUDGE

This matter comes before the Court on the parties' joint request for settlement conference and the Honorable Michelle Peterson's order granting the parties' request, referring this case to the undersigned for settlement purposes. Dkt. 48.

Accordingly, the Court orders as follows:

**The parties are directed to appear for a Settlement Conference to be held via Zoom video conference before the United States District Court for the Western District of Washington at Tacoma. The Conference will start at 9:00 AM on February 16, 2023, and will conclude no later than 3:00 PM. The Court will provide the parties with instructions to access the Zoom video conference separately from this Order. The required settlement memoranda, more fully described below, are due no later than 1:30 PM on Thursday, February 9, 2023.**

1 Persons with ultimate settlement authority must be personally present on the  
2 Zoom video conference to participate in the settlement conference, or readily available  
3 by phone.

4 Participation of parties at the settlement conference – in person on the video  
5 conference – is likely to increase the efficiency and effectiveness of the settlement  
6 conference. **All parties shall participate in the settlement conference (the Zoom**  
7 **video conference) with counsel.** A request to be exempt from this requirement should  
8 be submitted to the Court in writing no later than 1:30 PM on February 9, 2023. Please  
9 address any request to Payal Patel-Marte, Judicial Law Clerk to Magistrate Judge  
10 Fricke, at [payal\\_patel@wawd.uscourts.gov](mailto:payal_patel@wawd.uscourts.gov). The email subject line should include your  
11 case number and “Request for non-appearance of a party.”

12 Parties not appearing in person shall be available by phone and email (including  
13 the ability to review documents and sign) for the duration of the settlement conference.

14 Any counsel appearing without authority to negotiate, or without the ability to  
15 readily contact the person with full and ultimate settlement authority throughout the  
16 settlement conference, may be sanctioned.

17 Other people who may increase the probability of settling the case should be  
18 present, if possible. For example, the attendance of an expert may be helpful. Counsel  
19 assisting the client on related matters may need to be involved. At the very least,  
20 contact information should be available for them at the conference.

21 The Court directs plaintiff to make a settlement demand on or before 5:00 PM on  
22 **February 6, 2023** and defendant is directed to respond to that demand on or before  
23 5:00 PM on **February 10, 2023**.

Each party shall provide, **in confidence**, a concise settlement memorandum **no longer than ten double spaced pages and which should not include attachments or exhibits unless under extraordinary circumstances**. Please do not file these confidential memoranda with the Clerk's Office or serve the memoranda on opposing counsel. Each party's confidential memoranda shall include a brief description of:

1. any liability disputes;
2. facts you believe you can prove at trial;
3. the monetary value at issue in the case;
4. the major weaknesses in each side's case, both factual and legal;
5. the history of settlement negotiations thus far;
6. the party's settlement position;
7. the major obstacle(s) to settlement as you perceive it;
8. reference (by docket number) to any pending motions that would have a significant effect on settlement for the Court to review prior to settlement;
9. special issues that may have a material bearing upon settlement discussions;
- and
10. any person(s) (with a description of their position or role) you plan to bring to the settlement conference.

In setting forth your settlement position, please do not limit your discussion to arguments on the merits of your case. For the Court and the parties to be successful in the limited time provided for this settlement conference, you should provide the Court with a clear and candid understanding of your and your client's actual evaluation of the interests, value, and monetary aspects that your client is most concerned about in any

1 potential settlement of this case and an idea of terms under which you believe the case  
2 should settle.

3 The memorandum shall include the case number, case name, and should be  
4 emailed directly to Magistrate Judge Fricke, at: [payal\\_patel@wawd.uscourts.gov](mailto:payal_patel@wawd.uscourts.gov). The  
5 email subject line should read: “**Confidential – Wandke v. National Railroad**  
6 **Passenger Corporation -- February 16, 2023– [Defendant/Plaintiff’s name]**  
7 **Settlement Position Paper.**” Do not mail hard copies of the settlement memorandum  
8 to chambers.

9 Counsel for the parties may be contacted by the Court to answer questions,  
10 clarify issues, and discuss other preliminary matters designed to ensure the conference  
11 itself is productive. Counsel may contact the Court by sending an email to Judicial Law  
12 Clerk Payal Patel-Marte at: [payal\\_patel@wawd.uscourts.gov](mailto:payal_patel@wawd.uscourts.gov) if counsel would like to  
13 request an appointment with Magistrate Judge Fricke to address any matter they  
14 believe needs to be discussed in advance, including any request to use exhibits,  
15 technology-assisted presentations, or conduct lengthy opening statements.

16 It is the duty of the parties to notify the Court if trial is continued or if the case is  
17 settled or otherwise disposed of prior to the date of the scheduled settlement  
18 conference, so that the matter may be removed from the Court’s docket.

19 In the time period immediately preceding the settlement conference, if either  
20 party believes that negotiation attempts would not be fruitful at the time set for the  
21 conference for any reason, that party should contact the Court as soon as possible to  
22 discuss the concern. Counsel for the parties are strongly encouraged to engage in  
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1 preliminary discussions with an eye toward meaningfully narrowing their disputes before  
2 appearing for the Conference.

3 The Court expects that each participant will be well-prepared, open-minded, and  
4 sincerely interested in achieving settlement. To encourage open communication, the  
5 Court orders that all matters communicated in connection with this judicial settlement  
6 are confidential and not to be used for any other purpose.

7 Dated this 27th day of January, 2023.

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11 Theresa L. Fricke  
12 United States Magistrate Judge  
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